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Human rights questions: implementation of human rights instruments

Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Report of the Secretary-General

1. The General Assembly, by its resolution 39/46 of 10 December 1984, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to that resolution, and called upon all Governments to consider signing and ratifying the Convention as a matter of priority.

2. The Convention was opened for signature in New York on 4 February 1985. In accordance with article 27 thereof, the Convention entered into force on 26 June 1987, on the thirtieth day after the date of the deposit with the Secretary-General of the twentieth instrument of ratification or accession.

3. In its resolution 51/86 of 12 December 1996, the General Assembly welcomed the report of the Committee against Torture;[1] urged all States that had not yet done so to become parties to the Convention as a matter of priority; invited all States ratifying or acceding to the Convention and those States that were parties to the Convention and that had not yet done so to consider joining the States parties that had already made the declarations provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to articles 20; urged States parties to comply strictly with their obligations under the Convention, including their obligation to submit reports in accordance with article 19 of the Convention, in view of the high number of reports not submitted; stressed the need for regular exchanges of views between the Committee against Torture, the Special Rapporteur on Torture and other relevant United Nations mechanisms and bodies, with a view to enhancing further their effectiveness and cooperation on issues relating to torture, *inter alia*, by improving their coordination; commended the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights of the Secretariat for the support given to States in the preparation of national reports to the Committee; urged States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports; urged all States parties to the Convention to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;[2] and requested the Secretary-General to submit to the General Assembly at its fifty-third session a report on the status of the Convention.

4. The Commission on Human Rights, at its fifty-fourth session, on 17 April 1998 adopted resolution 1998/38, in which it called upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading

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treatment or punishment; urged all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23) and, in particular, of Part II, section B.5, relating to freedom from torture, in which it is stated that States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law; reminded Governments that corporal punishment could amount to cruel, inhuman or degrading punishment or even to torture; stressed in particular that all allegations of torture or cruel, inhuman or degrading treatment or punishment should be promptly and impartially examined by the competent national authority, that those who encouraged, ordered, tolerated or perpetrated such acts must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act was found to have taken place, and that national legal systems should ensure that the victims of such acts obtained redress and were awarded fair and adequate compensation and received appropriate socio-medical rehabilitation. The Commission also reminded all States that prolonged incommunicado detention might facilitate the perpetration of torture and could in itself constitute a form of cruel, inhuman or degrading treatment; stressed that under article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment acts of torture must be made an offence under domestic criminal law and that acts of torture during armed conflict were considered a grave breach of the Geneva Conventions of 1949, with the perpetrators liable to prosecution and punishment; emphasized the obligation of States parties under article 10 of the Convention to ensure education and training for personnel who might be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, and called upon the United Nations High Commissioner for Human Rights, in conformity with her mandate established in General Assembly resolution 48/141 of 20 December 1993, to provide, at the request of Governments, advisory services in that regard, as well as technical assistance in the development, production and distribution of appropriate teaching material for the purpose. The Commission stressed in that context that States mush not punish such personnel for not obeying orders to commit acts amounting to torture or other cruel, inhuman or degrading treatment or punishment.

5. As at 15 July 1998, the Convention had been ratified or acceded to by 105 States. In addition, 13 States had signed the Convention. The list of States that have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, is contained in the annex to the present report.

6. As at the same date, 39 of the States parties to the Convention, namely Algeria, Argentina, Australia, Austria, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Finland, France, Greece, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, the Russian Federation, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Uruguay, Venezuela and Yugoslavia, had made the declarations provided for in articles 21 and 22 of the Convention. In addition, two States parties, namely, the United Kingdom of Great Britain and Northern Ireland and the United States of America, had made the declaration provided for in article 21 only, thus bringing the total number of declarations under that article to 41. Under article 21, a State party to the Convention may declare at any time that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention. Under article 22, a State party to the Convention may declare at any time that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention.

7. The provisions of articles 21 and 22 entered into force on 26 June 1987 in accordance with paragraph 2 of article 21 and paragraph 8 of article 22.

8. The sixth meeting of the States parties to the Convention was convened by the Secretary-General at the United Nations Office at Geneva on 26 November 1997 to elect five members of the Committee against Torture to replace those whose terms of office were due to expire on 31 December 1997. As a result of the election, the membership of the Committee for 1998 is as follows:

Mr. Peter Thomas Burns (Canada)

Mr. Guibril Camara (Senegal)

Mr. Sayed Kassem El Masry (Egypt)

Mr. Alejandro González Poblete (Chile)

Mr. Andreas Mavromatis (Cyprus)

Mr. António Silva Henriques Gaspar (Portugal)

Mr. Bent Sorensen (Denmark)

Mr. Alexander M. Yakovlev (Russian Federation)

Mr. Yu Mengjia (China)

Mr. Bostjan M. Zupancic (Slovenia)

9. The Committee against Torture held its seventeenth, eighteenth, nineteenth and twentieth sessions at the United Nations Office at Geneva from 11 to 22 November 1996, from 29 April to 9 May 1997, from 10 to 21 November 1997 and from 4 to 22 May 1998, respectively. In accordance with article 24 of the Convention, the Committee submitted its annual reports,[3] covering its activities at the sessions referred to above, to the States parties and to the General Assembly at its fifty-second and fifty-third sessions.

Notes

[1] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 44* (A/51/44).

[2] Adopted by the Conference of States Parties to the Convention on 9 September 1992 in accordance with article 29, paragraph 1, of the Convention (CAT/SP/SR.4) and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992.

[3] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 44* (A/52/44), ibid., *Fifty-third Session, Supplement No. 44* (A/53/44).

Annex

List of States that have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 15 July 1998

State	*Date of signature*	*Date of receipt of the instrument of ratification, accession or succession*
Afghanistan	4 February 1985	1 April 1987
Albania		11 May 1994[a]
Algeria[a]	26 November 1985	12 September 1989
Antigua and Barbuda		19 July 1993[a]
Argentina[a]	4 February 1985	24 September 1986
Armenia		13 September 1993[a]
Australia[a]	10 December 1985	8 August 1989
Austria[a]	14 March 1985	29 July 1987
Azerbaijan		16 August 1996[a]
Bahrain		6 March 1998[a]
Belarus	19 December 1985	13 March 1987
Belgium	4 February 1985	
Belize		17 March 1986[a]
Benin		12 March 1992[a]
Bolivia	4 February 1985	
Bosnia and Herzegovina		6 March 1992[a]
Brazil	23 September 1985	28 September 1989
Bulgaria[a]	10 June 1986	16 December 1986
Burundi		18 February 1993[a]
Cambodia		15 October 1992[a]
Cameroon		19 December 1986[a]
Canada[a]	23 August 1985	24 June 1987
Cape Verde		4 June 1992[a]
Chad		9 June 1995[a]
Chile	23 September 1987	30 September 1988
China	12 December 1986	4 October 1988
Colombia	10 April 1985	8 December 1987
Costa Rica	4 February 1985	11 November 1993
Cote d'Ivoire		18 December 1995[a]
Croatia[a]		8 October 1991[a]
Cuba	27 January 1986	17 May 1995
Cyprus[a]	9 October 1985	18 July 1991
Czech Republic		1 January 1993[a]

State	Date of signature	Date of receipt of the instrument of ratification, accession or succession
Democratic Republic of the Congo		18 March 1996[a]
Denmark[c]	4 February 1985	27 May 1987
Dominican Republic	4 February 1985	
Ecuador[c]	4 February 1985	30 March 1988
Egypt		25 June 1986[a]
El Salvador		17 June 1996[a]
Estonia		21 October 1991[a]
Ethiopia		14 March 1994[a]
Finland[c]	4 February 1985	30 August 1989
France[c]	4 February 1985	18 February 1986
Gabon	21 January 1986	
Gambia	23 October 1985	
Georgia		26 October 1994[a]
Germany	13 October 1986	1 October 1990
Greece[c]	4 February 1985	6 October 1988
Guatemala		5 January 1990[a]
Guinea	30 May 1986	10 October 1989
Guyana	25 January 1988	19 May 1988
Honduras		5 December 1996[a]
Hungary[c]	28 November 1986	15 April 1987
Iceland[c]	4 February 1985	23 October 1996
India	14 October 1997	
Indonesia	23 October 1985	
Ireland	28 September 1992	
Israel	22 October 1986	3 October 1991
Italy[c]	4 February 1985	12 January 1989
Jordan		13 November 1991[a]
Kenya		21 February 1997[a]
Kuwait		8 March 1996[a]
Kyrgyzstan		5 September 1997[a]
Latvia		14 April 1992[a]
Libyan Arab Jamahiriya		16 May 1989[a]
Liechtenstein[c]	27 June 1985	2 November 1990
Lithuania		1 February 1996[a]
Luxembourg[c]	22 February 1985	29 September 1987
Malawi		11 June 1996[a]

State	*Date of signature*	*Date of receipt of the instrument of ratification, accession or succession*
Malta[a]		13 September 1990[b]
Mauritius		9 December 1992[b]
Mexico	18 March 1985	23 January 1986
Monaco[a]		6 December 1991[b]
Morocco	8 January 1986	21 June 1993
Namibia		28 November 1994[a]
Nepal		14 May 1991[a]
Netherlands[a]	4 February 1985	21 December 1988
New Zealand[a]	14 January 1986	10 December 1989
Nicaragua	15 April 1985	
Nigeria	28 July 1988	
Norway[a]	4 February 1985	9 July 1986
Panama	22 February 1985	24 August 1987
Paraguay	23 October 1989	12 March 1990
Peru	29 May 1985	7 July 1988
Philippines		18 June 1986[b]
Poland[a]	13 January 1986	26 July 1989
Portugal[a]	4 February 1985	9 February 1989
Republic of Korea		9 January 1995[b]
Republic of Moldova		28 November 1995[b]
Romania		18 December 1990[b]
Russian Federation[a]	10 December 1985	3 March 1987
Saudi Arabia		22 September 1997[b]
Senegal[a]	4 February 1985	21 August 1986
Seychelles		5 May 1992[b]
Sierra Leone	18 March 1985	
Slovakia[a]		29 May 1993[b]
Slovenia[a]		16 July 1993[b]
Somalia		24 January 1990[b]
South Africa	29 January 1993	
Spain[a]	4 February 1985	21 October 1987
Sri Lanka		3 January 1994[b]
Sudan	4 June 1986	
Sweden[a]	4 February 1985	8 January 1986
Switzerland[a]	4 February 1985	2 December 1986
Tajikistan		11 January 1995[b]

State	*Date of signature*	*Date of receipt of the instrument of ratification, accession or succession*
The former Yugoslav Republic of Macedonia		12 December 1994[c]
Togo[a]	25 March 1987	18 November 1987
Tunisia[a]	26 August 1987	23 September 1988
Turkey[a]	25 January 1988	2 August 1988
Uganda		3 November 1986[b]
Ukraine	27 February 1986	24 February 1987
United Kingdom of Great Britain and Northern Ireland[d]	15 March 1985	8 December 1988
United States of America[a]	18 April 1988	21 October 1994
Uruguay[a]	4 February 1985	24 October 1986
Uzbekistan		28 September 1995[b]
Venezuela[a]	15 February 1985	29 July 1991
Yemen		5 November 1991[b]
Yugoslavia[a]	18 April 1989	10 September 1991

Notes

[a] Made the declaration under articles 21 and 22 of the Convention

[b] Accession

[c] Succession

[d] Made the declaration under article 21 of the Convention